

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARC FISHMAN, INDIVIDUALLY, and on behalf
of all others similarly situated

Plaintiff,

– against –

Office of Court Administration New York State
Courts, Judge Michelle I. Schauer in her
administrative and official capacity, Nancy J. Barry,
District Executive 9th District NY Courts in her
administrative and official capacity, Dan Weisz,
Professional Director In his administrative and
official capacity New York Courts, Michelle
D'ambrosio in her administrative and official
capacity, Magistrate Carol Jordan in Her
administrative and official capacity Capacity, Judge
Gordon Oliver in her Administrative and Official
Capacity and Judge Kathy Davidson, Chief
Administrative Judge 9th circuit and former Chief
Judge of the Westchester Family Court in her
administrative and official capacity and the New York
State Unified Court System, and Jude Hal Greenwald,
in his administrative and official capacity Judge Alan
Scheinkman in his administrative and official
capacity as Chief Administrative Judge of the 9th
Circuit courts

Defendants.

**DECLARATION OF MICHAEL A. BERG IN SUPPORT OF
DEFENDANT MICHELE D'AMBROSIO'S MOTION TO DISMISS**

MICHAEL A. BERG declares under penalty of perjury and in accordance with
28 U.S.C. § 1746 as follows:

1. I am an Assistant Attorney General in the Office of Attorney General Letitia James of the State of New York, counsel for defendant Michele D'Ambrosio in this action brought by plaintiff Marc Fishman ("Plaintiff").

2. I submit this declaration in support of D'Ambrosio's Motion to Dismiss the action in its entirety, with prejudice, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure.

3. Attached hereto as Exhibit A is a true and complete copy of a Decision and Order Upon Application for ADA Accommodations, issued by the Honorable Michelle I. Schauer, a Judge of the Family Court of the State of New York, County of Westchester, dated January 25, 2017, in a proceeding styled *Matter of Solomon v. Fishman*, Docket Nos. O-7850-14 *et al.*

4. Attached hereto as Exhibit B is a true and complete copy of the Amended Complaint dated November 9, 2019 (ECF No. 44-1).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
May 23, 2019



Michael A. Berg